



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 54749 OF 2018 (GM-CPC)

BETWEEN:

1. SRI SUBBANAYAKA
S/O LATE JAVARANYAKA
AGED ABOUT 70 YEARS,
AGRICULTURIST
R/AT CHIKKABHERYA VILLAGE
MUNJANAHALLI POST
HOSA AGRAHARA HOBLI
K.R.NAGAR TALUK - 571 602
MYSORE DISTRICT - 57001
2. SRI RAJANAYAKA
S/O LATE JAVARANAYAKA
AGED ABOUT 53 YEARS,
AGRICULTURIST
R/AT KALETHIMMANAHALLI VILLAGE,
MUTTUR POST, KASABA HOBLI
PERIYAPATNA TALUK - 571 107
MYSORE DISTRICT-57001. .. PETITIONERS

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SHARADAVANI B
Location: HIGH
COURT OF
KARNATAKA

(BY SMT.ANUSHA ASUNDI, ADVOCATE FOR
SRI. A. MADHUSUDHANA RAO, ADVOCATE)



AND:

1. SMT DAMAYANTHI
W/O LATE CHOWDAIAH
AGED ABOUT 63 YEARS,
AGRICULTURIST.
2. SRI JAYAKUMARA
S/O LATE CHOWDAIAH
AGED ABOUT 40 YEARS,
AGRICULTURIST,
3. SRI SHASHIDARA
S/O LATE CHOWDAIAH
AGED ABOUT 34 YEARS,
ENGINEER
4. SMT. K C VEENA
D/O LATE CHOWDAIAH
AGED ABOUT 43 YEARS,
AGRICULTURIST,
5. SMT. PAVANA @ JYOTHI
D/O LATE CHOWDAIAH
AGED ABOUT 38 YEARS,
AGRICULTURIST,

RESPONDENTS 1 TO 5 ARE ALL
R/AT KALETHIMMANAHALLI VILLAGE
MUTTUR POST, KASABA HOBLI
PERIYAPATNA TALUK - 571 107
MYSORE DISTRICT - 57001

SMT. JAYAMMA
SINCE DEAD BY HER LRS



6. SMT. SHAKUNTHALA KUMARI
D/O LATE SAMPATH KUMAR
W/O SRI SOMASHEKARA
AGED ABOUT 28 YEARS,
ENGINEER,

7. SRI ANANTHAKUMAR
S/O LATE SAMPATH KUMAR
AGED ABOUT 26 YEARS,
AGRICULTURIST,

8. SRI UPENDRAKUMAR
S/O LATE SAMPATH KUMAR
AGED ABOUT 24 YEARS,
AGRICULTURIST,

RESPONDENTS 6 TO 8 ARE ALL
R/AT DODDAMAREGOWDANAHALLI
VILLAGE & POST, ILAVALA HOBLI,
MYSORE TALUK - 57001

9. SMT. PUTTAMMA
D/O LATE JAVARANAYAKA
W/O SRI THAMMANAYAKA
AGED ABOUT 65 YEARS,
R/AT HARAGODANAHALLI VILLAGE
YELECHAGAHALLI POST
HALLI MYSORE HOBLI
HOLENARASIPURA TALUK
HASSAN DISTRICT - 573 201.

10. SMT. THAYAMMA
D/O LATE JAVARANAYAKA
W/O SRI SHIVANNA
AGED ABOUT 53 YEARS,



AGRICULTURIST,
R/AT GALAGEKERE VILLAGE AND POST
HOSA AGRAHARA HOBLI
K.R.NAGAR TALUK - 571 602
MYSORE DISTRICT - 57001.

11. SMT. KALAMMA
W/O LATE JAVARANAYAKA
AGED ABOUT 90 YEARS,
AGRICULTURIST,
R/AT CHIKKABHERYA VILLAGE
MUNJANAHALLI POST
HOSA AGRAHARA HOBLI,
K.R. NAGAR TALUK - 571 602,
MYSORE DISTRICT - 57001.

RESPONDENT NO.11 IS DECEASED
RESPONDENT NO.1 TO 10 ARE THE
LEGAL REPRESENTATIVES OF THE
DECEASED RESPONDENT NO.11
AS PER THE ORDER OF THIS HON'BLE
COURT DATED 09.06.2025

12. SRI MANJUNATHA
S/O LATE THIMMAPPA
AGED ABOUT 50 YEARS,
AGRICULTURIST,
R/AT CONVENT ROAD
RUDRAPPA BADAVANE
PERIYAPATNA TOWN - 5771107
MYSORE DISTRICT - 57001.

13. SMT. AARIEF JAHN
W/O LATE MAHAMAD JAFER
AGED ABOUT 75 YEARS,



HOUSE HOLD WORK,
R/AT SANNAIAH STREET,
PETE, PERIYAPATNA TOWN - 5771107
MYSORE-57001

SINCE DEAD BY LRS

13A. SRI. MOHAMMED ZOKHRIYA
S/O. LATE MOHAMMED JAFER
MAJOR

13B. SMT. TABASSUM BHANU
D/O. LATE MOHAMMED JAFFAR
MAJOR

13C. SRI. MOHAMMED MUZAMIL
S/O. LATE MOHAMMED JAFAR
RESPONDENTS NO.13A TO 13 C ARE
RESIDING AT NO.964
SANNA BEEDI, PERIYAPATNA TOWN
PERIYAPATNA TALUK
MYSURU - 571 107

...RESPONDENTS

(BY SRI.H.V.SUBRAMANYA, ADVOCATE FOR R1 - R8 & R12
R9 AND R13 (A TO C) ARE SERVED & UN-REPRESENTED

VIDE ORDER DATED 08.01.2025,

NOTICE TO R10 IS DEEMED SERVICE OF NOTICE

VIDE ORDER DATED 09.06.2025,

R1 TO R10 ARE LRS OF DECEASED R11)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED



ORDER DATED 31.10.2018 PASSED BY THE LEARNED SENIOR CIVIL JUDGE AND JMFC, PERIYAPATNA, ON I.A.NO.16 IN O.S.NO.8/2013 PRODUCED AT ANNEURE-H, ALLOW THIS WRIT PETITION WITH COSTS, ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 31.10.2018 passed on I.A.No.16 in O.S.No.8/2013 by the Senior Civil Judge and JMFC, Periyapatna (hereinafter referred to as the 'Trial Court' for short).

2. Smt. Anusha Asundi, learned counsel on behalf of Sri. A Madhusudhana Rao, learned counsel for the petitioners submits that the petitioners have filed a suit for partition and separate possession. In the said suit, the petitioner No.1 adduced the evidence as PW1. Thereafter, they filed an application for summoning of witnesses and production of documents. The said application came to be



rejected by the Trial Court under the impugned order solely on the ground that it would cause further delay in adjudicating the dispute. It is submitted that PW1, in his evidence clearly deposed that defendant Nos.1 to 5 have bank accounts and fixed deposits, and that the amounts therein are from the joint family funds of late Chowdaiah. When such an assertion is made in the plaint as well as in the evidence, the Trial Court ought to have allowed the application as the suit is a partition suit. It is further submitted that the plaintiffs tried to secure the particulars from the bank, however, the bank accounts and other particulars with regard to the fixed deposits were not made available to the petitioners, as the petitioners are third parties. Hence, she seeks to allow the application seeking to summon the bank manager as well as the documents.

3. *Per contra*, Sri. H.V. Subramanya, learned counsel appearing for respondent Nos.1 to 8 and 12 submits that the bank accounts and fixed deposits are the



self-acquired properties of defendant Nos.1 to 5, and therefore they cannot be asked to summon the witnesses or produce documents from the bank. It is submitted that defendant Nos.4 and 5 are married and residing in different places along with their families and their account particulars cannot be sought. Hence he seeks to dismiss the petition.

4. I have heard the arguments of the learned counsel for the petitioners, the learned counsel for the respondents and have meticulously perused the material available on record.

5. The petitioners filed O.S.No.8/2013 against Smt. Damayanthi and others seeking for the relief of partition and separate possession. In the said suit, the defendants have filed a detailed written statement denying the assertion that the suit schedule properties are joint family properties and that the plaintiffs have no right over the same. Plaintiff No.1 examined himself as PW1. In his



examination-in-chief, plaintiff No.1 deposed that there is deposit of Rs.60,00,000/- in SBI, ADB, Abburu Branch, a deposit Rs.30,00,000/- in Syndicate Bank, and a deposit of Rs.50,00,000/- in MDCC Bank, and that these deposits belong to late Sri. Chowdaiah and that these are the suit schedule properties in respect of which the plaintiffs are seeking partition.

6. The plaintiffs filed an application under Order XVI Rules 1 and 2 read with Section 151 of CPC seeking to summon three witnesses, namely, the Manager, SBI Abburu Branch, Periyapatna, the Manager, Syndicate Bank, Bylakuppe Branch and the Manager, MDCC Bank, Periyapatna Branch. They also sought documents pertaining to the fixed deposits and SB accounts of late Sri. Chowdaiah and defendant Nos.1 to 5 from the banks. The said application came to be rejected by the Trial Court solely on the ground that it would cause further delay in the trial.



7. It is to be noticed that, in the plaint, a specific assertion has been made that the suit schedule properties that is movable as well as immoveable properties are joint family properties and that certain amounts are lying in SB accounts as well as fixed deposits. It is further asserted that those amounts are pertaining to late Sri Chowdaiah, who was the kartha of the family and that defendant Nos.1 to 5 are enjoying the said amounts. Furthermore, the affidavit accompanying the application, plaint as well as the evidence of PW1 clearly depose that in the three bank accounts, the funds from the joint family property are deposited.

8. Though the respondents have contended that the amounts and bank accounts have nothing to do with the joint family and that the amounts are the self-acquired amounts of the defendants, in my considered view, if the concerned bank managers are summoned and directed to produce the sought documents before the Trial Court, the ends of justice would be met. The evidence of the bank



officials as well as the documents would make it clear as to the dates of opening of the accounts, transactions made, nominees etc.,. Since the plaintiffs have made specific assertions in the plaint and made these items i.e. Item Nos.32 to 34, as part of the suit schedule properties, I am of the view that the application deserves to be allowed.

9. For the aforementioned reasons, I proceed to pass the following;

ORDER

- i) The writ petition is ***allowed***.
- ii) The impugned order dated 31.10.2018 passed in O.S.No.8/2013 by the Senior Civil Judge and JMFC, Periyapatna is set aside. Consequently, I.A.No.16 filed by the plaintiffs under Order XVI Rules 1 and 2 read with Section 151 of CPC is allowed.



- iii) The Trial Court shall issue summons to the witnesses and to secure the documents.
- iv) The Trial Court shall endeavour to dispose of the suit as early as possible.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

SHS
List No.: 1 Sl No.: 15